



**OFFICE OF THE
DEPUTY PRIME MINISTER**

To Directors of Housing of all local
authorities in England & other
interested bodies (see Annex)

Frances Walker
Housing Policy Advisor
HHM
Eland House
Bressenden Place
London
SW1E 5DU

Direct line: 3666
Fax: 3489
GTN: 3533

Web site: www.odpm.gov.uk

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Code of Guidance on the Allocation of Accommodation

The attached Code of Guidance relates to the allocation of accommodation; and is issued to housing authorities under s.169 of the Housing Act 1996 (the 1996 Act) by the First Secretary of State. All housing authorities are required to have regard to the guidance when exercising their functions under Part 6 of the 1996 Act.

The guidance reflects changes to Part 6 of the 1996 Act contained in the Homelessness Act 2002 (the 2002 Act). The Government intends to bring the allocation provisions of the 2002 Act into force on 31 January 2003. This Code of Guidance will have statutory force on the same date, and will supersede all guidance previously issued under s.169 of the 1996 Act.

A consultative draft of this guidance was issued in May 2002; and the final version has been revised to take account of responses to the consultation wherever possible. The guidance also reflects, at paragraph 5.9, the key points arising from the recent Court of Appeal judgment in the conjoined cases of *R (on the application of A) v Lambeth London Borough Council* and *R (on the application of Lindsay) v Lambeth London Borough Council* on 23 July 2002.

The guidance addresses the issue of how to offer applicants a choice of accommodation while continuing to give reasonable preference to those with the most urgent housing need, at paragraphs 5.10 to 5.12. We will be providing more detailed guidance on this issue towards the end of next year, once the ODPM choice based lettings pilot scheme has been properly evaluated.

The Code does not contain detailed guidance on the procedures which housing authorities should adopt when carrying out reviews of decisions under Part 6 of the 1996 Act. The issue of local authorities' review procedures under Parts 5 and 7 of the 1996 Act has been considered on more than one occasion recently by the Court of Appeal. We understand that one of those cases may be the subject of an appeal to the House of Lords. We will consider whether it would be appropriate to bring out further guidance to cover review procedures under Part 6 of the 1996 Act as the law continues to develop. In the meantime, housing authorities should ensure that the procedure for any review

carried out at the request of an applicant as mentioned in paragraphs 4.30, 5.58 and 6.13 of, and annex 13 to, this guidance is fair and compatible with the Convention for the Protection of Human Rights and Fundamental Freedoms (commonly known as the European Convention on Human Rights) (see sections 1 and 6(1) of, and Schedule 1 to, the Human Rights Act 1998). In doing so, they will wish to have regard to relevant judgments of the domestic courts and the European Court on Human Rights.

New regulations on the eligibility for an allocation of accommodation under s.160A (3) and (5) of the 1996 Act will come into force on 31 January 2003, and will replace the current regulations in SI 2000/702. A copy of the new regulations, and the commencement order, will be sent to housing authorities well in advance of the commencement date.

A copy of the Code of Guidance has been placed on the ODPM web-site at:
www.housing.odpm.gov.uk/local/allocation/index.htm

Yours faithfully,

Frances Walker

Housing Management Division

Tel: 020 7944 3666

Fax: 020 7944 3489

E-mail :

frances.walker@odpm.gsi.gov.uk

Annex

Interested Bodies

Age Concern
Association of Housing Advisory Services
Association of London Government
Audit Commission
Barnardos
Big Issue
Bridge
Carers National Association
Centrepont
Chartered Institute of Housing
Children's Society
Commission for Racial Equality
Crisis
Empty Homes Agency
Greater London Authority
Homeless Link
Help the Aged
Housing Corporation
Housing Law Practitioners Association
Independent Housing Ombudsman
Joseph Rowntree Foundation
Local Government Association
National Association of Citizens Advice Bureaux
National Disabled Persons Housing Service
National Housing Federation
Refuge
Shelter
Tenants Participation Advisory Service
Tenants & Residents Organisation of England
The Refugee Council
Women's Aid Federation of England